

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RUSSELL H. DAWSON, Personal
Representative of the Estate of Damaris
Rodriguez, et al.,

Plaintiffs,

V.

**SOUTH CORRECTIONAL ENTITY
("SCORE"), a Governmental Administrative
Agency, et al.,**

Defendants.

CASE NO. C19-1987RSM

ORDER GRANTING MOTION TO
COMPEL DISCOVERY RELATED
TO NAPHCARE'S INSURANCE
COVERAGE AND ASSETS

This matter comes before the Court on Plaintiffs’ “Motion to Compel Discovery Related to Naphcare’s Insurance Coverage and Assets,” Dkt. #74. Defendant Naphcare opposes. Dkt. #76. After reviewing the attached declarations of counsel, the Court has determined that Plaintiffs have satisfied LCR 37’s meet and confer requirement and that oral argument is unnecessary.

Plaintiffs in this case are Russell Dawson, personal representative of the estate of Damaris Rodriguez, Ms. Rodriguez's husband Reynaldo Gil, and their children. Dkt. #49. Defendants are South Correctional Entity Jail ("SCORE"), NaphCare, Inc., and roughly two dozen individuals associated with the jail and/or NaphCare. *Id.*

1 On December 30, 2017, Ms. Rodriguez had a mental health emergency while at her
 2 home in SeaTac. *Id.* Her husband, Reynaldo Gil, called 911 and requested medical assistance.
 3 The police arrived and, due to a confrontation of some kind, arrested Ms. Rodriguez.

4 Ms. Rodriguez was taken directly to SCORE. SCORE's medical personnel were
 5 provided by NaphCare, a for-profit, in-custody, medical contractor.

6 The Amended Complaint alleges that Ms. Rodriguez was severely mistreated at the
 7 hospital and denied adequate medical care. The details of this treatment, while central to
 8 Plaintiffs' claims, are not central to the instant Motion. Ms. Rodriguez allegedly developed
 9 ketoacidosis and died in custody four days later. *Id.* The Amended Complaint includes claims
 10 for *inter alia*, negligence and civil rights claims under § 1983, and seeks punitive damages
 11 against NaphCare. Dkt. #49 at ¶¶ 242-248 and ¶ 288.

12 On January 22, 2020, Plaintiffs served their first set of interrogatories and requests for
 13 production on NaphCare, which included Requests for Production ("RFP") 6-10, the subject of
 14 the instant Motion:

15 RFP NO. 6: Produce NaphCare Inc.'s balance sheets from 2007
 16 until present day.

17 RFP NO. 7: Produce NaphCare, Inc.'s quarterly and year end
 18 reports from 2007 until present day.

19 RFP NO. 8: Produce NaphCare, Inc.'s year end reports (also
 20 known as annual reports or end of year reports) and/or other
 21 documents reflecting Key Performance Indicators (also known as
 22 KPI) from 2007 until present day.

23 RFP NO. 9: Produce NaphCare, Inc.'s income statements and/or
 24 profit & loss statements from 2007 until present day.

RFP NO. 10: Produce all documents NaphCare, Inc. provided to
 shareholders, owners, directors, and/or members relating to
 NaphCare, Inc.'s financial condition from 2007 until present day.
 This includes but is not limited to business prospectuses,
 pamphlets and brochures.

1 NaphCare responded to each of the above requests with the same objections:

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RESPONSE: NaphCare objects to this request on the basis that the
request is overbroad as to time and the requested information is not
relevant at this stage of the litigation. Furthermore, as NaphCare is
entitled to the benefit of its insurance coverages including, but not
limited to, punitive damages, the information requested is not
relevant and is not reasonably calculated to lead to the further
discovery of admissible evidence. Finally, NaphCare is a privately
held corporation and objects to, and will not be, producing the
requested information, in whatever form it may exist, absent court
order requiring it do so.

8 Dkt. #75-1 (“Bingham Decl.”), ¶4, Exh. A.

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10 On November 4, 2020, Plaintiffs served their fourth set of interrogatories and requests
for production on NaphCare, which included Interrogatory No. 14; NaphCare served its
11 responses on December 4, 2020:

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INTERROGATORY NO. 14: Do any insurance or indemnification
policies or agreements exist that may satisfy part or all of a
judgment that may be entered in this action; or to indemnify or
reimburse for payments made to satisfy such judgment? If so,
please state as to each insurance agreement or policy its complete
contents, including:

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(a) Name, address and telephone number of insurer or indemnitor;
(b) Name, address and telephone number of each named insured or
indemnitee;
(c) Each type of coverage provided;
(d) Limits of each type of coverage provided;
(e) Amount of deductible as to each coverage;
(f) Policy period coverage;
(g) Policy number.
(h) If any portion of any policy has been partially or totally
exhausted, specify the amount exhausted and amount remaining
for each policy and/or type of coverage for each policy.

ANSWER: See NAPHCARE000001-NAPHCARE000068
produced on or about January 21, 2020. NaphCare objects to
providing the information sought by item (h) as it is not
information subject to disclosure by Rule 26, is not proportional to
the needs of the case, would not otherwise be admissible under

1 Rule 411 of the Federal Rules of Evidence and is not reasonably
 2 calculated to lead to the further discovery of admissible evidence.

3 Bingham Decl., ¶5, Exh. B.

4 The documents referenced in NaphCare's Answer to Interrogatory 14 are the insurance
 5 policy documents. Bingham Decl., ¶6. Those documents indicate that NaphCare has \$1,000,000
 6 in coverage per incident for professional liability claims and \$1,000,000 per incident for general
 7 liability claims with an additional \$5,000,000 in excess coverage. *Id.*, ¶7-8. However, Plaintiffs
 8 believe "NaphCare's policy limits for this claim are shared by numerous facilities nationwide"
 9 and cite to NaphCare's website indicating work in as many as 80 facilities. *Id.*, ¶¶10-12.

10 This case is still in the discovery stage. Defendants have not moved to dismiss the
 11 Amended Complaint or moved for summary judgment on the issue of punitive damages.

12 "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
 13 party's claim or defense and proportional to the needs of the case, considering the importance of
 14 the issues at stake in the action, the amount in controversy, the parties' relative access to
 15 relevant information, the parties' resources, the importance of the discovery in resolving the
 16 issues, and whether the burden or expense of the proposed discovery outweighs its likely
 17 benefit." Fed. R. Civ. P. 26(b)(1). If requested discovery is not answered, the requesting party
 18 may move for an order compelling such discovery. Fed. R. Civ. P. 37(a)(1). The party that
 19 resists discovery has the burden to show why the discovery request should be denied.
Blankenship v. Hearst Corp., 519 F.2d 418, 429 (9th Cir. 1975).

20 A defendant's net worth and financial condition is relevant to the issue of punitive
 21 damages. *See, e.g., TXO Production Corp. v. Alliance Resources Corp.*, 509 U.S. 443, 462 and
 22 n. 28, 464 (1993) (noting that it is "well-settled" that a defendant's "net worth" is a factor that is
 23 "typically considered in assessing punitive damages"). Such information can be obtained at any
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1 point in discovery that is not bifurcated by the Court, and Plaintiffs need not make a *prima facie*
 2 case or survive summary judgment in order to obtain it. As one Court in California stated, “the
 3 requirement that claimants establish a *prima facie* case applies to the admissibility of evidence
 4 about financial status, not its discoverability. The discoverability of information is governed by
 5 whether it would be relevant, not by whether the information discovered would be admissible at
 6 trial.” *Natural-Immunogenics Corp. v. Newport Trial Grp.*, 2017 U.S. Dist. LEXIS 224428,
 7 *16, 2017 WL 10562987 (C.D. Cal. 2017) (citing *CEH, Inc. v. FV SEAFARER*, 153 F.R.D. 491,
 8 498-99 (D. R.I. 1994) (citations omitted)).

9 Plaintiffs argue that they will be asking for an award at trial sufficient to punish and
 10 deter NaphCare, and that therefore “a complete understanding of NaphCare’s financial
 11 circumstances and potential for indemnification will likely be admissible.” Dkt. #74 at 5.
 12 Plaintiffs maintain that the information sought is proportionate to the needs of the case, and that
 13 the requested documents “are all standard accounting documents will not be burdensome to
 14 locate and produce.” *Id.* at 10–11.

15 NaphCare argues that it complied with its disclosure obligations under Rule 26 related to
 16 insurance and that should suffice. Dkt. #76 at 5. NaphCare argues that its financial information
 17 will be relevant to the issue of punitive damages only if Plaintiffs can make a *prima facie*
 18 showing that they are entitled to such damages. *Id.* at 6–7.

19 The Court finds that the majority of the discovery sought in the above RFPs and
 20 interrogatory is relevant to Plaintiffs’ claims for punitive damages, not privileged, and
 21 proportional to the needs of this case. There is no legal basis to require Plaintiffs to make a
 22 *prima facie* showing as to punitive damages, nor has discovery in this case been bifurcated.
 23 What NaphCare has been required to disclose under Rule 26 is irrelevant as to its requirement to
 24 respond to RFPs and interrogatories. The Court agrees with NaphCare that Plaintiffs’ requests

1 are overbroad as to time and will limit such requests to the last three years that data is available
2 (i.e., 2018, 2019, 2020). *See* Dkt. #76 at 10 (citing cases). The Court further agrees that RFP
3 No. 10 is overbroad and not particularly relevant to the information that Plaintiffs need for their
4 punitive damages claim—Plaintiffs do not need to understand all the financial workings of
5 NaphCare. NaphCare need not produce documents in response to this RFP. Producing the
6 remaining information should not be overly burdensome and it is likely to have a significant
7 benefit now to Plaintiffs' understanding of the value of their claims and for the parties to pursue
8 settlement.

9 The Court finds that sanctions are not warranted at this time, as no party has violated a
10 Court order or otherwise engaged in egregious conduct related to discovery.

11 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
12 finds and ORDERS that Plaintiffs' Motion to Compel, Dkt. #74, is GRANTED. Defendants are
13 to provide Plaintiffs with full and complete responses to RFPs No. 6 through 9, limited to the
14 last three years of available data, and to Interrogatory No. 14, no later than **14 days** after the
15 date of this Order.

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17 DATED this 5th day of March, 2021.

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21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
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